

Pension Benefit Guaranty Corporation

§ 4043.9

except to the extent that reporting is required under this part.

§ 4043.5 How and where to file.

Reportable event notices required under this part must be filed electronically in accordance with the instructions posted on PBGC's Web site, <http://www.pbgc.gov>. Filing guidance is provided by the instructions and by subpart A of part 4000 of this chapter.

§ 4043.6 Date of filing.

(a) *Post-event notice filings.* PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that a submission under subpart B of this part was filed with PBGC.

(b) *Advance notice and Form 200 filings.* Information filed under subpart C or D of this part is treated as filed on the date it is received by PBGC. Subpart C of part 4000 of this chapter provides rules for determining when PBGC receives a submission.

§ 4043.7 Computation of time.

PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period under this part.

§ 4043.8 Confidentiality.

In accordance with section 4043(f) of ERISA and § 4901.21(a)(3) of this chapter, any information or documentary material that is not publicly available and is submitted to PBGC pursuant to subpart B or C of this part will not be made public, except as may be relevant to any administrative or judicial action or proceeding or for disclosures to either body of Congress or to any duly authorized committee or subcommittee of the Congress. This provision does not apply to information or material submitted to PBGC pursuant to subpart D of this part, even where the submission serves as an alternative method of compliance with § 4043.25.

§ 4043.9 Company low-default-risk safe harbor.

(a) *Low-default-risk.* An entity (a "company") that is a contributing sponsor of a plan or the highest level U.S. parent of a contributing sponsor is "low-default-risk" on the date of an event if that date falls within a safe

harbor period of the company as described in paragraph (b) of this section.

(b) *Safe harbor period.* A safe harbor period for a company means a period that—

(1) Begins on a financial information date (as described in paragraph (c) of this section) on which the company satisfies the low-default-risk standard in paragraph (e) of this section, and

(2) Ends 13 months later or (if earlier) on the company's next financial information date.

(c) *Financial information date.* A financial information date for a company means—

(1) A date on which the company files on Form 10-K with the Securities and Exchange Commission ("SEC") audited annual financial statements (including balance sheets, income statements, cash flow statements, and notes to the financial statements) for the company's most recent completed fiscal year preceding the date of such filing;

(2) The date (the "closing date") on which the company closes the annual accounting period that results in the production of audited or unaudited annual financial statements for the company's most recent completed fiscal year preceding the closing date, if audited annual financial statements are not required to be filed with the SEC; or

(3) A date on which the company files with IRS an annual federal income tax return or IRS Form 990 (in either case, a "return") for the company's most recent completed fiscal year preceding the date of such filing, if at the time the return is filed there are no annual financial statements for the year of the return.

(d) *Supporting financial information.* For purposes of this section, the "supporting financial information" is the annual financial statements or return associated with the establishment of the financial information date.

(e) *Low-default-risk standard.*—(1) *Adequate capacity.* For purposes of this part, except as provided in paragraph (e)(4) of this section, a company meets the low-default-risk standard as of a financial information date (the "qualifying date") if the company has adequate capacity to meet its obligations